

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "E" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER) &
SHRI SANDEEP KARHAIL (JUDICIAL MEMBER)**

**ITA No. 8948/MUM/2025
Assessment Year: 2019-20**

Exim Trac
Shop No. 03, Laxmi
CHSL, Off MG Road, No.
4 Behind Patel Nagar,
Kandivali (W), Mumbai –
400067.

PAN – AAAFE7436J

ACIT, CC – (431)(91)
Kautilya Bhavan, BKC
Vs. Bandra (E), Mumbai
400051.

Appellant

Respondent

Assessee by : Shri VP Kothari
Revenue by : Shri Hemanshu Joshi, CIT-DR

Date of Hearing : 11/03/2026
Date of pronouncement : 27/03/2026

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against order dated 10.11.2025 passed by the Ld. Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre, Delhi [in short 'the Ld. CIT(A)'] for assessment year 2019-20 in relation to penalty levied u/s 270A of the Income Tax Act, 1961 [in short 'the Act']. The sole ground raised by the assessee is reproduced herein below:



1. *The Ld. CIT(A) / NFAC has erred in law and facts in dismissing the appeal and confirming the penalty of 200% being Rs. 62,400/- u/s 270A of the Income Tax Act, 1961 without properly considering the facts and circumstances of the case.*
2. Briefly stated, the Assessee is a partnership firm engaged in the export of general merchandise. For the relevant AY 2019-20, the Assessee filed its return of income on 25.09.2019, declaring a total income of ₹50,05,950/-. In this return, a deduction of ₹1,00,000/- was claimed under Section 80GGC on account of a donation purportedly made to a political party, namely 'Apna Desh Party'.
 - 2.1 The return of income filed by the assessee was processed u/s 143(1) of the Act. Subsequent to the processing of the return, information was received following a search operation conducted on the said political party. The investigation revealed a systematic "accommodation entry" racket wherein the party provided bogus donation receipts in exchange for commission (ranging from 3% to 5%), returning the donation amount to the donors in cash.
 - 2.2 Consequently, proceedings under Section 148A were initiated. Despite being confronted with specific evidence—including the sworn statement of the President of the Apna Desh Party admitting to providing bogus entries—the Assessee initially maintained the genuineness of the claim during the Section 148A(b) proceedings. However, following the issuance of notice under Section 148, the Assessee filed a return of income withdrawing the said claim and



paying the requisite tax and interest. The assessment was concluded on 06.01.2025 under Section 144B read with Section 147, accepting the returned income.

2.3 The Assessing Officer (AO) thereafter initiated penalty proceedings under Section 270A, alleging "under-reporting of income in consequence of misreporting." The AO rejected the Assessee's plea of "voluntary disclosure," holding that the withdrawal of the claim was a result of inevitable detection rather than bona fide contrition. A penalty of 200% of the tax sought to be evaded was imposed, which was subsequently upheld by the Ld. CIT(A) observing as under:

6.4 During the appellate proceedings, the appellant reiterated that it is a regularly assessed tax-compliant exporter that filed all returns along with the mandatory tax audit report. In response to the notice under section 148, it revised the return to include the political donation of Rs. 1,00,000 as taxable income and paid tax and interest thereon before the reassessment was completed. The addition was not disputed to maintain peace with the department despite the donation being genuine. The appellant argued that no concealment or misrepresentation existed because the donation details were already disclosed in the return, supported by a receipt and bank evidence. The AO, it maintained, carried out no independent verification or provided evidence that the donation was returned in cash, and instead merely relied upon information from another search case. It claimed that the penalty notice and order were mechanical, vague, and issued without lawful jurisdiction, particularly as the AO failed to establish intentional misreporting. Therefore, the levy of penalty was claimed to be unjustified, contrary to law, and based on presumptions rather than facts.



6.5 The details submitted are perused. It is observed that the AO based the penalty on findings from a search operation conducted on the Apna Desh Party, which revealed that the party was engaged in providing bogus donation entries. The AO noted that the appellant had claimed a deduction of Rs. 1,00,000 under section 80GGC in its original return and only withdrew it after the case was reopened due to the search information. It was observed that the reassessment was completed accepting the revised income only because the appellant withdrew the donation claim after being confronted with evidence. The AO held that, had the search action not occurred, the appellant would have continued to enjoy an incorrect deduction, thereby misreporting income. Consequently, it was concluded that the appellant underreported income due to misrepresentation and suppression of facts within the meaning of section 270A(9)(a), and levied penalty at 200 percent of tax on the disallowed amount. The AO rejected the argument of bona fides and voluntary compliance, considering the donation claim to be part of a bogus donation racket that came to light only through investigative action.

6.6 Regarding the appellant's argument that there was no underreporting since the reassessment accepted the returned income, the AO's position justifies penalty because the revised disclosure arose only after detection through external investigation. The voluntary offer was not truly voluntary but a post-detection rectification. Under section 270A(9) (a), this qualifies as misreporting due to misrepresentation of facts. The claim under section 80GGC in the original return constituted an inaccurate statement of income, irrespective of later withdrawal.

6.6.1 On the contention that the donation was genuine and disclosed with full particulars, such disclosure cannot exonerate penalty if the underlying claim is found non-genuine based on credible evidence from search findings. With respect to the appellant's submission that the notice under section 270A was vague and -mechanical, the record shows that the AO clearly referred to underreporting in consequence of misreporting, citing section 270A(9)(a). Thus, the procedural requirement was



satisfied. The appellant's reliance on earlier precedents regarding section 271(1)(c) does not directly apply, as the structure and language of section 270A differ, defining distinct categories of underreporting and misreporting.

6.6.2 Finally, the claim of co-operation and bona fide intent cannot override the statutory presumption where misreporting is detected through concrete evidence of false claim. The AO has correctly invoked penalty under section 270A at 200 percent, as the material facts-particularly the donation being part of a bogus entry racket-were unearthed only through Departmental investigation, and not disclosed by the appellant suo motu.

6.6.3 In view of the above facts and discussion the ground of appeal is hereby dismissed and penalty levied by the A.O. is hereby confirmed.

3. Before us, the Ld. Counsel for the assessee again reiterated the submissions which were made before the Ld. CIT(A) and submitted that assessee has voluntarily offered the said deduction for tax in the return of income filed in response to sec 148 of the Act and there is no "variation" between the returned income and assessed income in the reassessment proceedings; hence, Section 270A is not triggered; Further the Ld. Counsel for the assessee also submitted that the notice issued u/s 270A of the Act is defective and vague, failing to specify the exact limb of "misreporting" under Section 270A(9), thereby violating the principles of natural justice , the notice itself is liable to be quashed. In support thereof the Ld. Counsel relied in the following judicial decisions:



- i. *ACIT Vs Anuj Prakash Gupta ITA No. 11/RPR/2026 dated 05.02.2026.*
- ii. *Shri Deepak Mittal Vs. ACIT, Circle 1(1), ITA No. 393/Vizag/2014.*
- iii. *PCIT Vs. Gragerious Projects Pvt Ltd in (2025) 475 ITR 546 (Delhi)*
- iv. *Kaemaveer Singh Vs. ITO 25(1), Delhi ITA 4673/Del/2024.*

3.1 Per contra the Ld. Departmental Representative (DR), submitted that (i) The "voluntariness" claimed by the Assessee is a facade. The claim was only withdrawn after the Department unearthed the fraud via a search operation; (ii) Section 270A(9)(a) specifically covers "misrepresentation or suppression of facts," which is squarely applicable here.

4. We have heard the rival contentions and scrutinized the material on record. The primary issue before us is whether the Assessee's conduct constitutes "under-reporting in consequence of misreporting" within the meaning of Section 270A.

4.1 The Assessee's reliance on decisions pertaining to Section 271(1)(c) is misplaced. Unlike the erstwhile "concealment" or "inaccurate particulars" regime, Section 270A creates a distinct hierarchy of "under-reporting" and "misreporting." The AO specifically invoked Section 270A(9)(a), which pertains to the misrepresentation or suppression of facts. The record indicates that the Assessee was fully aware of the charges, having responded to the specific allegations regarding the bogus donation. Thus, the notice cannot be termed vague or mechanical.



4.2 The statutory scheme of Section 270A(9) is designed to penalize dishonest claims. In the present case, the Assessee claimed a deduction for a donation that investigation proved to be a circular movement of cash. Further the contention of the assessee that he voluntarily withdrawn the deduction claimed in regular return of income is also not justified because even during the proceedings u/s 148A of the Act, the Assessee initially defended the claim and did not accept for withdrawal of deduction of section 80GGC and submitted the claim to be genuine despite the Id AO brought the facts emerged in the course of search in the case of political party. Thus offering the income in response to return filed u/s 148 of the Act cannot be treated as voluntarily nature. Further the argument of "peace of mind" for offering the income does not negate the fact that the initial claim was based on a non-existent transaction.

4.3 The act of claiming a deduction for an accommodation entry is a classic case of misrepresentation of facts. The subsequent "voluntary" offer in response to a Section 148 notice—issued only after the Department had obtained incontrovertible evidence from a third-party search—is merely an attempt to mitigate the consequences of detection. It does not wash away the initial misreporting.



4.4 The decisions relied upon by the assessee before us have already been dealt by the Ld. CIT(A). The decision in the case of **Anuj Prakash Gupta (supra) & Shri Deepak Mittal (supra)** are distinguishable from the facts as both the decisions related to disputes over the eligibility of deductions under Section 80GGA, and not on the issue of penalty. Further in the case of **Gregerious Pvt Ltd (supra)**, penalty levied by in terms of Sec. 270A(1)(c) of the Act. The issue in dispute in said decision was as under:

8. Assessment Order under Section 143(3) of the Act was passed on 23.05.2017, vide which, an addition of Rs. 5,00,00,000/- was made on account of alleged advance given to M/s. TAIDIA Construction and written off in the year under consideration. The AO while disallowing the alleged business expenditure noted that the assessee company had failed to file any agreement or supporting evidence in respect of the advance.

9. AO further adjusted the business loss of Rs. 14,046/- with the income from short term capital loss and assessed the total income at Rs. 96,88,900/- as against loss of Rs. 5,00,14,046/-, claimed in the ITR.

10. Penalty proceedings u/s 271(1)(c) were initiated by the AO and after recording his satisfaction, notice u/s 274 read with 271(1)(c) was issued, whereby, the assessee was asked to show cause as to why penalty u/s 271 (1) (c) may not be imposed upon it.”

4.5. Thus, the facts and circumstances of the said case are different from the case of the assessee.



4.6 Similarly, the facts in *Kaeamveer Singh* (supra) are distinguishable as the notice therein was devoid of any specific statutory limb, whereas here, the AO has clearly identified the charge under Section 270A(9)(a).

4.7 In view of the foregoing, we hold that the Assessee's conduct squarely falls under the ambit of "misreporting" through the suppression and misrepresentation of the nature of the transaction. The Ld. CIT(A) was justified in confirming the penalty at the rate of 200%. We find no reason to interfere with the well-reasoned order of the lower authorities. Accordingly in view of the above submission we uphold the order of Ld. CIT(A) in the issue in dispute. The sole ground of the appeal of the assessee accordingly dismissed.

5. In the result the appeal filed by the assessee stands dismissed.

Order pronounced in the open Court on 27/03/2026.

Sd/-
(SANDEEP SINGH KARHAIL)
JUDICIAL MEMBER

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Mumbai;

Dated: 27/03/2026

KRK, SR. PS



Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,
(Assistant Registrar)
ITAT, Mumbai